

Congress of the United States
Washington, DC 20515

November 26, 2021

The Honorable Gary Gensler
Chairman
Securities and Exchange Commission (SEC)
100 F Street NE
Washington, DC 20549-0100

Dear Chairman Gensler:

We have learned from our constituents and write on their behalf to express our deep concern over recent actions by Unilever PLC in connection with the July 19, 2021, announcement of a boycott of sales of ice cream products by Unilever's wholly owned subsidiary, Ben & Jerry's Ice Cream in the West Bank and East Jerusalem. We believe that these actions require the SEC to request that the regulatory filings of Unilever be amended to disclose the material risk factors described below and in the appended letter.

We have been informed that, Ben & Jerry's has halted the sale of its products in the West Bank and East Jerusalem. We also understand that the actions by Ben & Jerry's disregards numerous United States' state laws, which requires a state to divest from companies that participate in such boycotts. To date, Arizona, Florida, New Jersey, New York, and Texas have taken steps to divest of Unilever's common shares¹²³⁴. Additionally, 30 other states have enacted "anti-BDS" laws, all of which may consider divestiture in response to public appeal.

Unilever has stated publicly that Ben & Jerry's has an independent Board of Directors which has sole discretion to pursue a social agenda of its choosing which, in this case, was the termination of sales of its products in the West Bank and East Jerusalem⁵.

It is also our understanding that Unilever may have violated Rule 10b-5 of the Securities Exchange Act of 1934 relating to material omissions in the 6-K. Given the potential negative impact of such material omissions, which is why we believe the SEC should ask Unilever to revise the "Principal Risk Factors" section of their 6-K to fully and accurately disclose the potential material adverse consequences to the company based by the claimed independence of the Ben & Jerry's Board of Directors, and the specific potential effects of the Ben & Jerry's boycott.

We have also been informed that the 6-K filed by Unilever fails to include specific language that details the potential adverse consequences to Unilever created by the Ben & Jerry's boycott in its "Principal Risk Factors" section⁶. We understand that these consequences include: (i) the divestment of Unilever's securities by states and prohibitions on owning the securities may have a directly depressing effect on the price of the securities affecting shareholders to their detriment; (ii) responsive boycotts by individual consumers and food store chains of Ben & Jerry's ice cream products as well as other Unilever products may have a similar effect on Unilever's earnings; and (iii) the cost of United States' state investigations and potential federal investigations may also have a financial cost to Unilever to the detriment of earnings and

¹ GERGELY, Julia, et al. "NY's Pension Fund Halts Investments in Unilever over Ben & Jerry's Israel Stance." *The Times of Israel*, 30 Oct. 2021, <https://www.timesofisrael.com/nys-pension-fund-halts-investments-in-unilever-over-ben-jerry-israel-stance/>.

² "Florida to Start Divesting from Ben & Jerry's Parent Firm over West Bank Boycott." *The Times of Israel*, 26 Oct. 2021, <https://www.timesofisrael.com/florida-to-start-divesting-from-ben-jerrys-parent-firm-over-west-bank-boycott/>.

³ Adely, Hannan. "NJ Intends to Divest \$182M from Unilever over Ben & Jerry's Boycott of Israeli Settlements." *North Jersey Media Group*, NorthJersey.com, 15 Sept. 2021, <https://www.northjersey.com/story/news/2021/09/15/ben-jerrys-israel-boycott-leads-nj-divestment/8342364002/>.

⁴ O'Connor, John. "Illinois Seeks Ben & Jerry's Divestment over Israel Stance." *AP NEWS*, Associated Press, 29 July 2021, <https://apnews.com/article/middle-east-business-israel-illinois-0c7fa63454f15fe6b3de3ff2646f65ac>.

⁵ "Unilever Statement on Ben & Jerry's Decision." *Unilever Global Company Website*, <https://www.unilever.com/news/press-releases/2021/unilever-statement-on-ben-and-jerrys-decision.html>.

⁶ "Unilever PLC Form 6-K for the Month of July 22, 2021." *EDGAR*. Securities and Exchange Commission, 2021, <https://www.sec.gov/Archives/edgar/data/0000217410/000165495421008117/a0561g.htm>.

to the distraction of management. It also fails to disclose that Ben & Jerry's, its wholly owned subsidiary, can pursue whatever actions it chooses to take in pursuit of its social agenda—without the oversight of Unilever and without regard to the effects of Unilever. Evidence in support of this concern is the decline of Unilever ADS common shares by approximately 13% since the announcement of the boycott, equivalent to a loss in shareholder value of \$21 billion.

In the interests of shareholders, consumers, and public policy, we believe it is appropriate for the SEC to take steps to ensure the full disclosure of all information necessary to make Unilever's filings in compliance with the rules and regulations of the United States' SEC. Unilever is a widely held company with a current market capitalization of \$135 billion, which places in jeopardy the manifold United States institutions, pension funds, and endowments which hold its shares on behalf of its beneficiaries. We ask that you consider our request, brought to us by our constituents, and give full and fair consideration within all applicable laws, rules, and regulations.

Sincerely,



Ritchie Torres
Member of Congress



Josh Gottheimer
Member of Congress



Andrew Garbarino
Member of Congress



Brian Fitzpatrick
Member of Congress